

REMARKS/ARGUMENTS

Applicant appreciates the Examiner's thorough review of this application. By the present amendment, the specification and drawings have been amended to provide clarity and consistency therebetween. Claims 1-20 stand pending in this application. Claims 1-5 and 7-9 have been amended and new claims 10-20 have been added. The amendment to the specification, claims and drawings are not believed to involve the introduction of new matter. In light of the following remarks, it is believed the application in condition for allowance. Reconsideration is respectfully requested.

The Examiner objects to the drawings under 37 CFR 1.83(a), stating that the drawings must show every feature of the invention specified in the claims. In particular, the Examiner argues that the limitations of claims 4 and 8 must be shown or the nonillustrated feature(s) canceled from the claims. Claims 4 and 8 have been amended wherein each feature of the claims is illustrated in the drawings. Accordingly, Applicant respectfully requests withdrawal of the objection to the drawings under 37 CFR 1.83(a).

The Examiner further objects to the drawings as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" [sic] has been used to designate two different parts. Applicant believes the Examiner intended to refer to character "20". As depicted in the annotated sheet showing changes, Applicant changed "20", associated with the ceiling template, to -22- in order to properly indicate the discharge opening and to provide agreement with the specification. The amendment to the drawings is believed to address the concern raised by the Examiner; accordingly, Applicant respectfully requests withdrawal of the corresponding objection to the drawings under 37 CFR 1.84(p)(4).

Applicant appreciates the early indication of allowable matter indicated with respect to

claims 5 and 9. Claims 5 and 9 have been amended to clarify that the air comfort appliance unit is not being claimed in combination with the return air apparatus.

The Examiner rejects to claims 1-4, 7 and 8 under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,531,641 to Aldrich in view of U.S. Patent No. 5,501,634 to Wilder. The Examiner further rejects claim 6 under 35 U.S.C. 103(a) as being upatentable over Aldrich in view of Wilder as applied to claim 1 and further in view of Official Notice. Applicant respectfully traverses the Examiner's rejections.

The Examiner argues that Aldrich discloses the claimed invention except for the down draft diverter. The Examiner further states that Wilder teaches a cover assembly with volume control louvers; and argues that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the second opening of Aldrich with a diverter, as taught by Wilder, in order to control the volume of air flow. Applicant respectfully traverses the Examiners rejection.

For example, the proposed modification of Aldrich in view of Wider fails to disclose all of the limitations of claim 1. Indeed, claim 1 of the present application recites:

the first section of the return air grille including a first area in communication with the direct discharge opening of the return air cover, the second section of the return air grille including a second area in communication with the return opening of the return air cover, and the return air grille further including a divider flange dividing the first area from the second area

Aldrich in view of Wider fails to provide any teaching or suggestion of a divider flange dividing a first area from a second area of a return air grille. Rather, Aldrich discloses a register (68) and a return air grille (64) and does not disclose a divider flange dividing a first area from a second area of a return air grille as recited in claim 1. Wider only discloses a register with a single section for discharging air. Applicant therefore respectfully requests withdrawal of the

rejection of claim 1, and claims 2-4 and 6 depending therefrom, since Aldrich in view of Wider fails to teach or suggest all of the limitations of claim 1.

Moreover, the proposed modification of Aldrich in view of Wider fails to disclose all of the limitations of claim 7. Indeed, claim 7 of the present application recites:

a filter positioned between the return opening of ceiling template and the return opening of the return air cover, wherein the filter is positioned remote from the return air grille to maximize filter area and minimize air flow resistance (emphasis added)

Aldrich teaches that it is known to use of a filter with the return air grille 64 (see column 3, lines 49-51). However, Aldrich states that “[p]referably, a filter is located over the return air grille 64” (see column 3, lines 49-51). While Aldrich teaches positioning the filter over a return air grille, there is no teaching or suggestion provided by Aldrich or Wider to position the filter “remote from the return air grille” as required by claim 7. Positioning the filter such that it is remote from the return air grille is desirable to maximize filter area and minimize air flow resistance. Applicant therefore respectfully requests withdrawal of the rejection of claim 7 and claims 8 and 9 depending therefrom, since Aldrich in view of Wider fails to teach or suggest all of the limitations of claim 7.

In addition to the indication of allowability with respect to claims 5 and 9, remaining depending claims further contain further features that distinguish over Aldrich in view of Wider. For example, claim 3 recites a filter that is positioned “remote from the return air grille to maximize filter area and minimize air flow resistance.” Aldrich in view of Wider fails to teach or suggest this feature as discussed with respect to claim 7 above. Accordingly, Applicant further requests withdrawal of the corresponding rejection of claim 3 for this additional reason.

Claims 4 and 8 each recite that “the return air cover includes grooves spaced in interval”. With respect to claim 4, the Examiner argues “it would have been obvious to one having ordinary

skill in the art at the time the invention was made to substitute a conventional gate valve for the volume control louvers of Aldrich.” Applicant respectfully traverses this rejection. The Examiner proposes to modify Aldrich with the teachings of Wider but then proposes to further modify the teachings of Wider. It is believed that modifying a secondary reference used to modify the primary reference, as proposed by the Examiner, involves improper hindsight reasoning. Still further, the Examiner has not demonstrated that a conventional gate valve includes grooves spaced in interval as recited by claim 4. Even if the Examiner demonstrates that a gate valve includes such grooves, Wider apparently teaches away from providing predetermined degrees of openness. Indeed, providing grooves spaced in interval facilitates maintenance of an opening between the down draft diverter and the ceiling template at predetermined degrees of openness. In contrast, Wider apparently suggests continuous adjustment to degrees of openness that are not necessarily predetermined. Accordingly, applicant respectfully requests withdrawal of the corresponding rejection of claims 4 and 8 for this additional reason.

Claim 6 sets forth that the return air apparatus further includes “circuit boards mounted in the return air cover for a filter indicator that indicates when to replace the filter and a solar panel battery charging indicator that indicates when a solar panel is charging.” The Examiner takes Official Notice that such features are known in the prior art without providing a reference demonstrating any teaching or suggestion of the features recited in claim 6. Applicant respectfully requests allowance of claim 6 or references supporting the Official Notice taken by the Examiner.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone

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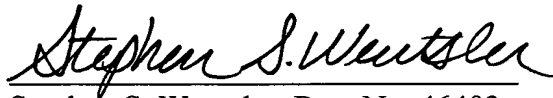
interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same
to our Deposit Account No. 16-0820, our Order No. 35149US1.

Respectfully submitted,

PEARNE & GORDON LLP

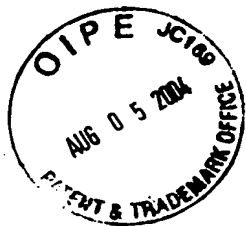
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1/2

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